CITY HALL COUNCIL CHAMBERS
SANTA MARIA, CALIFORNIA
REGULAR MEETING

JANUARY 5, 2010

INVOCATION:
Pastor Paul Berry from Calvary Chapel gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:
Councilmember Patino led the Pledge of Allegiance.

CALL TO ORDER:
Mayor Lavagnino called the Regular Meeting of the City Council to order at 6:30 p.m.

ROLL CALL:
MEMBERS PRESENT
Councilmembers Cordero, Orach, Patino, Zacarías, and Mayor Lavagnino.

STAFF MEMBERS PRESENT
City Manager Ness, City Attorney Trujillo, Assistant City Manager Haydon, Director of Community Development Appel, Acting Fire Chief Jones, Director of Utilities Sweet, Director of Public Works/City Engineer Whitehead, Acting Director of Administrative Services Harvey, Director of Recreation and Parks Posada, Police Chief Macagni, Utilities Engineer Kahn, and Chief Deputy City Clerk Perez.

RESOLUTION RECOGNIZING AL TORRES, JR.
Councilmember Cordero read Resolution No. 2010-01 honoring and commending Al Torres, Jr., Police Officer for the Santa Maria Police Department, for 33 years of dedicated service to the City of Santa Maria and the community and congratulating him on his retirement.

Councilmember Cordero indicated he was Officer Torres' first training officer 33 years ago.

Resolution No. 2010-01 was adopted on motion by Councilmember Cordero, seconded by Councilmember Zacarías, and carried on the following vote:

AYES:	Councilmembers Cordero, Orach, Patino, Zacarías, and Mayor Lavagnino
NOES:	None
ABSENT:	None
ABSTAIN:	None

Resolution No. 2010-01 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, RECOGNIZING AND COMMENDING SANTA MARIA POLICE OFFICER AL TORRES, JR. FOR HIS 33 YEARS OF OUTSTANDING SERVICE TO THE CITY OF SANTA MARIA AND CONGRATULATING HIM ON HIS RETIREMENT.

Al Torres thanked the City Council, Chief of Police, and City Manager for their support. He thanked the City for 33 wonderful years. He also thanked his wife and family for their support over the years.

PROCLAMATION – GEORGE CURTIS TUNNELL DAY
Mayor Lavagnino read a proclamation declaring January 8, 2010, as "George Curtis Tunnell Day" in the City of Santa Maria and wishing him a happy 100th birthday. He indicated he worked for Mr. Tunnell in the 1960's, and Mr. Tunnell was responsible for him getting into public service.

Curtis Tunnell, Jr. thanked the Council on behalf of his father. Mr. Tunnell also thanked Mayor Lavagnino and the Council for the recognition.

ANNOUNCEMENTS
Mayor Lavagnino stated he had just received the results from the last "Cruisin' for Life" fundraiser, and they were able to donate $100,000 to cancer causes.

PUBLIC COMMENT
Ernest Armenta spoke regarding endorsements of employee associations to City Council candidates, and the ballot measure of the Police Officers Association. He asked the employee associations to get out of politics.

Bob Ziener stated residents of Santa Maria must always remember that 22 years ago the City of Santa Maria was designated a "City of Peace." Even though there was conflict within the City, the residents had an obligation to work toward the goal of peace.

CONSENT CALENDAR
Councilmember Cordero requested Item 3E be pulled for comment. Councilmember Patino requested Item 3F be pulled for comment.

Item 3E – Entertainment License for Applebee's Neighborhood Grill & Bar
Councilmember Cordero stated the staff report said the City was not allowing any dancing but was allowing limbo. He did not know what the difference was and expressed concerns about injuries. He also expressed concerns regarding Wii games which could be dangerous due to the remotes needed to play the game. He said he would support it, though, as he felt Applebee's was a responsible company and would stay on top of the entertainment.

Item 3F – Federal Stimulus Overlay Project #2
Councilmember Patino said she wanted the public to know that this project was funded with Federal stimulus funds and would be putting people to work in Santa Maria.

Consent Calendar Items A through F were approved on motion by Councilmember Orach, seconded by Councilmember Patino, and carried on the following vote:

AYES: Councilmembers Cordero, Orach, Patino, Zacarías, and Mayor Lavagnino
NOES: None
ABSENT: None
ABSTAIN: None

A. ORDINANCES
The reading in full of all ordinances and resolutions was waived. Ordinances on the Consent Calendar were adopted by the same vote cast at the first reading unless City Council indicated otherwise.

B. MINUTES
The Minutes of the Regular City Council Meeting of December 15, 2009, were approved as submitted.

C. WARRANTS
Warrant Nos. 155495 to 156006 totaling $4,637,677.01 were ordered ratified subject to having been certified as being in conformity with the budget and having been approved for payment by the Acting Director of Administrative Services. Warrant Nos. 155465, 155133, 155600, and 155541 were cancelled.

D. PAYROLL
Payment of payroll was ordered ratified subject to having been certified by the proper Department Heads, as shown on records on file in the Department of Administrative Services and having been approved for payment by the Acting Director of Administrative Services.

E. ENTERTAINMENT LICENSE – APPLEBEE'S
Resolution No. 2010-02 was adopted approving an Entertainment License for Applebee's Neighborhood Grill & Bar located at 1415 S. Bradley Road to allow

entertainment in the form of theme nights Sunday through Thursday from 6:00 p.m. to 11:30 p.m. and Friday and Saturday from 6:00 p.m. to 12:30 a.m., Wii games, board games and trivia nights on Sunday through Thursday from 6:00 p.m. to 11:30 p.m. and Friday and Saturday from 6:00 p.m. to 12:30 a.m., and live music and Karaoke on Sunday through Thursday from 9:00 p.m. to 11:30 p.m. and Friday and Saturday from 9:00 p.m. to 12:30 a.m.

Resolution No. 2010-02 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING AN ENTERTAINMENT LICENSE FOR APPLEBEE'S NEIGHBORHOOD GRILL & BAR.

F. AWARD OF BID

Resolution No. 2010-03 was adopted awarding the bid and approving a contract for the Federal Stimulus Overlay Project #2, Bid No. 2010/07, to CalPortland Construction in the amount of $959,639.30.

Resolution No. 2010-03 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING A CONTRACT WITH CALPORTLAND CONSTRUCTION FOR FEDERAL STIMULUS OVERLAY PROJECT #2, Bid No. 2010/07.

ENVIRONMENTAL REVIEW OF AN ENVIRONMENTAL IMPACT REPORT AND ADDENDUM AND APPROVAL OF TWO AGREEMENTS PERTAINING TO THE WATERLINE INTERTIE PROJECT BY THE NIPOMO COMMUNITY SERVICES DISTRICT FOR THE SALE AND DELIVERY OF SUPPLEMENTAL WATER.

Director of Utilities Sweet gave the staff report. The City Council, acting as the Responsible Agency, is asked to consider an Environmental Impact Report (EIR) and Addendum for the Nipomo Community Services District (NCSD) Waterline Intertie Project, and adopt a resolution approving two agreements with NCSD for the sale and delivery of supplemental water and the aesthetic review of a project pump house. This item was continued from the December 1st and 15th City Council meetings to prepare an addendum to the EIR to address comments in two letters from the San Luis Obispo Coastkeeper.

The City and Nipomo both overlie the Santa Maria Groundwater Basin. The water would not be moving out of the basin, it would be moving within the basin to create a solution to a localized depression issue which is causing some far-reaching impacts to other areas.

The Santa Maria Groundwater Litigation Stipulation requires that the City of Santa Maria (City) provide the Nipomo Management Area with supplemental water annually. The NCSD and the City signed a Memorandum of Understanding (MOU) in 2004 to begin negotiations for a supplemental water sales agreement. The NCSD completed the preliminary design and certified an Environmental Impact Report (EIR) for the Waterline Intertie Project to deliver the supplemental water to the Nipomo community. The City and NCSD have completed negotiations for the supplemental water sale and NCSD approved the Wholesale Water Supply Agreement in October. The sale of supplemental water to Nipomo is a judicious use of a fiscal asset and will contribute toward groundwater restoration and preservation while providing balance of the inflow and outflow of water and its storage within the groundwater basin. The City has adequate water to supply Nipomo.

The City received two letters from the San Luis Obispo Coastkeeper expressing concerns about the Project and the environmental study. The City chose to produce an Addendum to the EIR to provide clarifications and address comments made in the San Luis Obispo Coastkeeper letters.

Additionally, a question arose during the City Council meeting on December 1, 2009, as to the City's ability to review the aesthetics of the potential pump house within the City. An agreement has been prepared and approved by NCSD to address this concern.

Director Sweet stated late today the City received an additional letter from Coastkeeper. The first two items in the letter are well addressed in the addendum. Regarding Item 3 in the letter, it is critical to look at what Mr. Hensley is saying. The map depicts that when the basin is in the slight depression as it was in the Spring of 2008, the contours exist so the water flows toward the depression. It becomes even worse when the depression worsens, and the water flows even more toward the depression which creates a negative change to the natural underflow characteristics of the river. Any change to alleviate the depression should make the river flow more toward its natural underflow characteristics which would make the underflow situation better, not worse.

Mayor Lavagnino stated one of the things to watch out for in the basin was salt water intrusion. If the depression continued, salt water intrusion was possible. He asked if any place in California had been successful in eliminating salt water intrusion once it happened.

Director Sweet stated he was not aware of any place. He said there had been efforts to try to eliminate salt water intrusion, but he was not aware of any that were successful in removing it.

Michael Le Brun, Interim General Manager of NCSD, expressed his support of this project and was available for any questions. He felt City staff did an excellent job in addressing questions that had come up. They also felt Mr. Woods' Environmental Impact Report stood well on its own. It was NCSD's intent to comply with the stipulation and the perceived solutions to the groundwater depression.

Joan Leon, representing the Santa Maria Community Coalition, stated they were concerned about the quantity of water to be provided to Nipomo, the impact on the City's water supply, and the adequacy of the Environmental Impact Report. The court stipulation required a minimum delivery of 2,500 acre feet a year of supplemental water to Nipomo. They agree with that; however, any quantity beyond that would be for future growth in Nipomo. They did not think the City of Santa Maria should be providing water for Nipomo growth. She referenced sections of the EIR. The Coalition believed Santa Maria residents deserved first choice of the water.

Director Sweet stated the groundwater quality was based on the amount of high-quality water the City could get. It did not necessarily mean the amount of State water the City could get. There were several ways the City could obtain additional high-quality water. The City could purchase water on the open market which was the least expensive way to obtain more high-quality water. The money that was derived from the Nipomo deal would be enough to supply high-quality water even under the worse case scenario.

Joann Marmolejo, representing SBCAN, stated they were concerned about the City's agreement to supply Nipomo with more water than was required to maintain the viability of the Santa Maria River Basin. They believed that an additional EIR was needed to address the impact of the new agreement on the water basin and the long-term stability of the water resource for Santa Maria rate payers. It made no sense for Santa Maria to provide Nipomo with more than the court ordered when projected growth in Santa Maria would require additional water. They urged the Council not to approve delivery of any more than the 2,500 acre feet of water stipulated by the court.

Ernest Armenta commented that most of the people in Santa Maria were simple rate payers, and all they wanted to know was how it was going to benefit the rate payers. As to the projected growth in the next 12 years, there might be a new Council this year that was anti-growth. He asked what would happen if this project was not approved.

Director Sweet explained that the funds from the sale of water to Nipomo would pay for the delivery of water to Nipomo even in the worst case scenario. In most cases, there would be more money for the City to utilize. However, it was too early to start discussing how the funds would be allocated as the earliest the water could be delivered was in 2012. If the project did not happen, there was a possibility of salt water intrusion if the depression worsened. As the groundwater turned more and more to the

north to fill the depression, it would be Santa Maria water going that way which would be one of the impacts to the City.

Councilmember Zacarías stated she felt Mr. Armenta's question was a good one. There were examples in the City where new revenues had been generated by City assets, and those revenues had been allocated back into the community. She said she felt this Council and future Councils should consider all options for allocation of those funds.

Gordon Hensley of the San Luis Obispo Coastkeeper stated their issue was about public trust resources. They were not opposed to the idea of the pipeline. They were concerned about the process and the information presented in the CEQA documents. Absent the instream flow assessment being conducted by the Department of Fish and Game, the documents did not accurately provide a baseline for a decision on this project. They were requesting the Council continue action on the project until the Department of Fish and Game completed its assessment. The alternative would be for the City to conduct its own study. After reading the documents, it seemed to him to be more of balancing the books then balancing the water in the basin.

Director Sweet stated this project actually stabilized the basin and would have a positive impact.

Councilmember Zacarías referred to the most recent letter from San Luis Obispo Coastkeeper and read the section regarding their request for a continuance. She said it had been her tendency to support requests for continuances. However, she did not know what waiting for the instream flow assessment would do. She asked what the study was anticipated to show, and if there would be a case where the Department of Fish and Game would come back and tell the City it could not provide the 2,500 acre feet that the Court ordered.

Director Sweet stated it was his understanding that the study had not been started yet due to lack of funding. It would actually be prepared by the USGS with the Department of Fish and Game participation, and there was no expected date for the study to begin or conclude. Mr. Hensley's belief was that there could be a groundwater extraction limitation placed on the City by the Department of Fish and Game. The flows in the river did not have anything to do with the groundwater levels historically. He was not aware of the Department of Fish and Game or USGS limiting the pumping of a groundwater basin.

City Attorney Trujillo stated in response to the letters from Coastkeeper, the City did retain the services of a professional hydrologist. The City's role was as a responsible party and not as the lead agency. In reviewing an EIR, the document did not have to be perfect or exhaustive but should be thorough. He believed the City made a very good effort to address Coastkeeper's concerns at considerable time and expense.

Mayor Lavagnino stated in his opinion, money was certainly not the driving force. To him, it was about protecting the resources of the Santa Maria Valley and ensuring there was no salt water intrusion into the Santa Maria Valley aquifer.

Councilmember Patino stated that her one concern with Coastkeeper was that they were not a part of the process except at the very last minute. It was important that the Council protect the quantity and quality of water for the Santa Maria Valley. It was not for the money, it was for the people of this valley. It was about protecting the quality of water. She would be supporting this because it was in the best interest of the people of the Santa Maria Valley.

Councilmember Cordero stated he agreed with the Mayor. The quality of water for the residents of Santa Maria was the most important thing. He asked how the City could acquire additional water and if that was being done already. He asked why the City was going out and purchasing more water and then selling water at the same time.

Director Sweet explained there were several mechanisms for acquiring water through the State water system. The City used a consultant to find water for the City. In years where the City was trying to reach its water quality goals without sufficient State water to do that, water had been purchased on the open market. He said a lot of what the City did was to preserve the quality of water that went back into the basin. The goal was to put better water back into the basin than what was taken out. The way to do that was by getting supplemental water. The City could leverage these deals to get more supplemental water for the benefit of the groundwater basin.

Councilmember Orach stated a lot of this started back in the 1980's when the importation of State water was the hot topic. The City had done more good for the recovery of the basin for everybody that obtains water from the basin.

Resolution No. 2010-04 was adopted considering an Environmental Impact Report and Addendum for the Nipomo Community Services District Waterline Intertie Project and making findings and approving a Statement of Overriding Considerations under the California Environmental Quality Act on motion by Councilmember Orach, seconded by Councilmember Patino, and carried on the following vote:

AYES: Councilmembers Cordero, Orach, Patino, Zacarías, and Mayor Lavagnino
NOES: None
ABSENT: None
ABSTAIN: None

Resolution No. 2010-04 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, CONSIDERING AN ENVIRONMENTAL IMPACT REPORT (EIR) AND ADDENDUM, APPROVING MITIGATION MEASURES, MAKING FINDINGS, AND ORDERING THAT A NOTICE OF DETERMINATION BE FILED FOR THE NIPOMO COMMUNITY SERVICES DISTRICT WATER SUPPLY PROJECT (STATE CLEARINGHOUSE NUMBER 2005071114), INCLUDING WHOLESALE WATER SUPPLY AND CONSISTENCY REVIEW AGREEMENTS WITH THE DISTRICT.

Resolution No. 2010-05 was adopted approving a Wholesale Water Supply Agreement with NCSD for the sale and delivery of supplemental water and Waterline Intertie Consistency Review Agreement on motion by Councilmember Orach, seconded by Councilmember Patino, and carried on the following vote:

AYES: Councilmembers Cordero, Orach, Patino, Zacarías, and Mayor Lavagnino
NOES: None
ABSENT: None
ABSTAIN: None

Resolution No. 2010-05 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING AGREEMENTS WITH NIPOMO COMMUNITY SERVICES DISTRICT ON THE SALE AND DELIVERY OF SUPPLEMENTAL WATER.

CITY MANAGER'S REPORT

City Manager Ness reported on anticipated items for the January 19, 2010, City Council meeting including semi-annual appointments to various Boards and Committees and presentations on the California Statewide Local Streets & Roads Needs Assessment Report and the League of California Cities 2010 Statewide Initiative.

ORAL REPORTS BY COUNCILMEMBERS

Councilmember Orach reported he spent the holidays with his family, and wished everyone a Happy New Year.

Councilmember Zacarías reported she attended the Teen Leadership Program of the United Way and the funeral of Eric Alonzo. She had a beautiful and blessed Christmas.

Mayor Lavagnino stated he spent the last month ill with a sinus infection. His son-in-law's sister died of cancer the day after Christmas, and they attended the funeral in Santa Rosa. He said he had a great Christmas and wished everyone a Happy New Year.

Councilmember Patino reported she served dinner at the Salvation Army and attended the PAL Boxing Club Dinner on December 18th, and had a great Christmas and New Year.

Councilmember Cordero reported he also attended the PAL Boxing Club Dinner on December 18th and a Future Search meeting regarding youth violence at Supervisor Centeno's office on December 21st, and a gathering for politicians at Supervisor Joni Gray's.

CLOSED SESSION

The City Council recessed to a Closed Session at 7:55 p.m. to discuss Conference with Legal Counsel - regarding Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9 for Santa Maria Police Officers Association v. City of Santa Maria, Case No. 1318327, Daniel Olivares v. City of Santa Maria, Case No. 1318686, and Conference with Labor Negotiator pursuant to Government Code Section 54957.6, Agency Representative: Assistant City Manager; Employee Organizations: Santa Maria Police Officers Association (SMPOA); Service Employees International Union (SEIU), Local 620; Fire Fighters Local 2020; Public Safety Managers; and Non-Represented Management and Confidential Employees

After the Closed Session, the following report was given:

Conference with Legal Counsel – Santa Maria Police Officers Association v. City of Santa Maria – A status report was given with no reportable action taken.

Conference with Legal Counsel – Daniel Olivares v. City of Santa Maria – A status report was given with no reportable action taken.

Conference with Labor Negotiator – All bargaining units – Direction to staff was given.

ADJOURNMENT

There being no further business to come before the City Council at this time, the meeting was declared adjourned by Mayor Lavagnino at 8:37 p.m.

APPROVED

January 19, 2010
Date

Patricia A. Perry
Chief Deputy City Clerk of the City of Santa Maria and ex officio Clerk of the City Council

ATTEST

Patricia A. Perry
Chief Deputy City Clerk

S. Lavagnino
Mayor of the City of Santa Maria